

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA ex rel.)	
SHAWN PETRENKO #R-13864,)
)
Petitioner,)
)
v.) No. 11 C 1356
)
MARCUS HARDY, Warden,)
)
Respondent.)

MEMORANDUM OPINION AND ORDER

Shawn Petrenko ("Petrenko") has filed a 28 U.S.C. §2254¹ Petition for Writ of Habeas Corpus ("Petition") to challenge his April 19, 2002 conviction and the life sentence he has since been serving. This memorandum opinion and order addresses several issues posed by the Petition.

To begin with, Petrenko has neither paid a filing fee nor filed for in forma pauperis status. Because the only fee required is the modest sum of \$5, Petrenko is ordered to pay that fee within the next two weeks (on or before April 5), and the case will go forward in the meantime.

Next, this Court has considered the threshold issue of timeliness of the Petition, for the one-year limitations clock prescribed by Section 2244(d)(1)(A) began to tick well over five years ago--Petition Part I.4 identifies September 29, 2005 as the date on which the Illinois Supreme Court denied leave to appeal

¹ All further references to Title 28's provisions will simply take the form "Section--."

the adverse ruling by the Illinois Appellate Court for the Third District on Petrenko's direct appeal, and another 90 days (to December 28, 2005) are added even though Petrenko did not choose to seek certiorari before the United States Supreme Court. But most of that long intervening time span was occupied by Petrenko's post-conviction proceedings in the state courts.² Even though those post-conviction proceedings appear to have posed issues different from those raised in the current Petition, Carter v. Litscher, 273 F.3d 663 (7th Cir. 2001) teaches that the entire span of years during which the post-conviction proceedings were wending their way through the Illinois state court system is tolled under the literal language of Section 2244(d)(2).

With those threshold issues out of the way, this Court has conducted the preliminary review of the Petition called for by Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts. It is clear that a response to the Petition is called for, and respondent is ordered to file such a response on or before May 20, 2011. In the meantime Petrenko's concurrently-filed Motion for Weekly Access to Legal Research Material and Motion for Appointment of Counsel are both denied without prejudice, subject to possible revisiting if called for

² Petrenko's loss of his post-conviction effort before the Appellate Court is reported at 385 Ill.App.3d 479, 896 N.E.2d 873 (3d Dist. 2008), and his loss on further appeal to the Illinois Supreme Court is reported at 237 Ill.2d 490, 931 N.E.2d 1198 (2010).

by future developments in the case.

A handwritten signature in cursive script, reading "Milton I. Shadur".

Milton I. Shadur
Senior United States District Judge

Date: March 21, 2011